
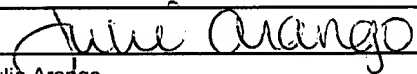
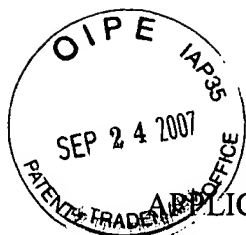
	Application Number	09/848,534	
	Filing Date	05/02/2001	
	First Named Inventor	Peter Van Horne	
	Art Unit	3621	
	Examiner Name	Hewitt II, Calvin L.	
Total Number of Pages in This Submission	42	Attorney Docket Number	CISCO-4667 (032590-161)

ENCLOSURES (check all that apply)		
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PATENT  
Serial No. 09/848,534  
Atty. Docket No. CISCO-4667 (032590-161)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANT: Peter Van Horne et al. CONFIRMATION NO.: 6599  
SERIAL NO.: 09/848,534  
FILING DATE: 05/02/2001  
TITLE: COMMUNICATIONS NETWORK CONNECTION SYSTEM AND  
METHOD  
EXAMINER: Hewitt II, Calvin L.  
ART UNIT: 3621

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**APPEAL BRIEF**

Dear Sir:

This paper is in support of a Notice to Appeal filed July 23, 2007, of the Office Action dated April 23, 2007, to the Board of Patent Appeals and Interferences.

09/24/2007 FHETEKI1 00000041 09848534

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**REAL PARTY IN INTEREST**

Cisco, Inc.

**RELATED APPEALS AND INTERFERENCES**

None.

**STATUS OF CLAIMS**

Claims 1-38 have been canceled.

Claims 39-82 have been finally rejected and are on appeal.

**STATUS OF AMENDMENTS**

No amendments after final have been filed. All amendments have been entered.

**SUMMARY OF CLAIMED SUBJECT MATTER**

The invention relates to a system that enables clients to connect to a network. In particular, according to one aspect, a server (110; FIG. 2) is provided, for example at a public, central location such as a hotel. The server 110 is connected to the network (310; fig. 2), which can be the Internet, for example. The server is also coupled to one or more access ports (160; FIG. 2), which can be disposed in the individual hotel rooms. Users use their client machines (10; FIG. 1) to connect to the access ports of the server, affording them access to the network. The server and the client machines run software (130; 90) that performs various tasks for controlling this access, including establishment of settings and billing conditions for charging the clients for network access.

Claim 39 is directed to a method for providing communication (p. 9, ll. 22-25) among a client system (10; p. 10, l. 2), server system (110; p. 10, l. 20) and an electronic communications network (ECN 310; p. 10, l. 27), the client system including a Central Processor Unit (CPU) (p. 10, ll. 2-3), volatile working memory (p. 10, ll. 3-4) associated with the CPU, and a communications interface (p. 10, l. 5), the client system further running client software (90; p. 10, ll. 9-10) for managing the communications between the client system and the electronic communications network, the server system running server software (130; p. 10, ll. 22-25) for managing communications between a plurality (p. 23, ll. 9-10; ll. 16-18) of client systems and the electronic communications network. The method includes, if a previous session using said client software completed unsuccessfully (p. 15, ll. 7-9): (1) offering a user an option of either continuing or restoring system settings of said client system (p. 15, ll. 12-13), (2) receiving from said user an indication responsive to said offering (p. 15, ll. 14-17), and (3) determining whether to restore said system settings based at least in part on said indication (p. 15, ll. 14-17). The method also includes specifying a billing preference (p. 17, ll. 14-17), said billing preference chosen from a predefined set of billing options (p. 17, ll. 14-17), said billing options including at least one technique for making a monetary payment. The method further includes transmitting said billing preference to the server system (p. 17, ll. 20-21), receiving a billing approve/reject signal from the server system (p. 17, ll. 26-28), accessing the electronic communications network



via the server system if an approve signal is provided in said receiving (p. 18, ll. 10-12), and conducting two-way communications with the electronic communications via the server system.

Claim 46 is directed to a method for providing communication (p. 9, ll. 22-25) among a client system (10; p. 10, l. 2), a server system (110; p. 10, l. 20), and an electronic communications network (ECN 310; p. 10, l. 27), the client system running client software (90; p. 10, ll. 9-10) for managing the communications between the client system and the electronic communications network, the server system running software (130; p. 10, ll. 22-25) for managing communications between a plurality (p. 23, ll. 9-10; ll. 16-18) of client systems and the electronic communications network. The method includes initiating communication with said client system (p. 16, ll. 2-5) upon said client system completing initialization wherein if a previous session using said client software completed unsuccessfully (p. 15, ll. 7-9), said client system: (1) offers a user an option of either continuing or restoring system settings of said client system (p. 15, ll. 12-13); (2) receives from said user an indication responsive to said offering (p. 15, ll. 14-17); and (3) determines whether to restore said system settings based at least in part on said indication (p. 15, ll. 14-17). The method further includes providing a set of billing options to the client system (p. 17, ll. 14-17), said billing options including at least one technique for making a monetary payment. The method further includes receiving a billing preference from the client system (p. 17, ll. 20-21), said billing preference chosen from said billing options, transmitting a billing approve/reject signal to the client system (p. 17, ll. 26-28), providing the client system with access to the electronic communications network via the server system if an approve signal is provided in said transmitting (p. 18, ll. 10-12), and conducting two-way communication between the electronic communications network and the client system via the server system.

Claim 55 is directed to a method for providing communication (p. 9, ll. 22-25) among a client system (10; p. 10, l. 2), a server system (110; p. 10, l. 20), and an electronic communications network (ECN 310; p. 10, l. 27), the client system running client software (90; p. 10, ll. 9-10) for managing the communications between the client system and the electronic communications network, the server system running software (130; p. 10, ll. 22-25) for managing communications between a plurality (p. 23, ll. 9-10; ll. 16-18) of client systems and

the electronic communications network. The method includes initiating communication with said client system (p. 16, ll. 2-5) upon said client system completing initialization wherein if a previous session using said client software completed unsuccessfully (p. 15, ll. 7-9), said client system: offers a user an option of either continuing or restoring system settings of said client system (p. 15, ll. 12-13); receives from said user an indication responsive to said offering (p. 15, ll. 14-17); and determines whether to restore said system settings based at least in part on said indication (p. 15, ll. 14-17). The method further includes providing a set of billing options (p. 17, ll. 14-17), said billing options including at least one technique for making a monetary payment, receiving a billing preference from the client system (p. 17, ll. 20-21), said billing preference chosen from said billing options, sending an approval inquiry to a remote approval system (p. 17, ll. 29-30), sending a temporary approval signal (p. 24, ll. 12-15) from the server system to the client system before an approval signal is received by the server system from the remote approval system (p. 24, ll. 12-15); granting the client system temporary access to the electronic communications network via the server system (p. 24, ll. 12-19); and conducting two-way communications between the electronic communications network and the client system via the server system.

Claim 58 is directed to a client system (10; p. 10, l. 2) for communicating with an electronic communication network (ECN 310; p. 10, l. 27) via a server system (110; p. 10, l. 20). The client system includes a central processing unit (CPU) (p. 10, ll. 2-3), volatile working memory (p. 10, ll. 3-4) associated with said CPU, a communications interface (p. 10, l. 5) coupled to said CPU and volatile working memory, and client software (90; p. 10, ll. 9-10) coupled to said CPU, volatile working memory, and communications interface. The client system is configured to, if a previous session using said client software completed unsuccessfully (p. 15, ll. 7-9): offer a user an option of either continuing or restoring system settings of said client system (p. 15, ll. 12-13); receive from said user an indication responsive to said offering (p. 15, ll. 14-17); determine whether to restore said system settings based at least in part on said indication (p. 15, ll. 14-17); specify a billing preference (p. 17, ll. 14-17), said billing preference chosen from a predefined set of billing options (p. 17, ll. 14-17), said billing options including at least one technique for making a monetary payment; transmit said billing preference to the server system (p. 17, ll. 20-21); receive a billing approve/reject signal from the server system (p. 17, ll.

26-28); accessing the electronic communications network via the server system if an approve signal is provided in said receiving (p. 18, ll. 10-12); and conduct two-way communications with the electronic communications network via the server system.

Claim 65 is directed to a server system (110; p. 10, l. 20) for facilitating communications between a client system (10; p. 10, l. 2) and an electronic communication network (ECN 310; p. 10, l. 27). The server system includes a processor (120; FIG. 2) and software for managing communications between a plurality (p. 23, ll. 9-10; ll. 16-18) of client systems and the server system. The server system is configured to initiate communication with said client system (p. 16, ll. 2-5) upon said client system completing initialization wherein if a previous session using said client software completed unsuccessfully (p. 15, ll. 7-9), said client system: offers a user an option of either continuing or restoring system settings of said client system (p. 15, ll. 12-13); receives from said user an indication responsive to said offering (p. 15, ll. 14-17); and determines whether to restore said system settings based at least in part on said indication (p. 15, ll. 14-17); provide a set of billing options to the client system (p. 17, ll. 14-17), said billing options including at least one technique for making a monetary payment; receive a billing preference from the client system (p. 17, ll. 20-21), said billing preference chosen from said billing options; transmit a billing approve/reject signal to the client system (p. 17, ll. 26-28); grant the client system access to the electronic communications network if an approve signal is provided in said transmitting (p. 24, ll. 12-19); and interface two-way communication between the electronic communications network and the client system.

Claim 74 is directed to a server system (110; p. 10, l. 20) for facilitating communications between a client system (10; p. 10, l. 2) and an electronic communication network (ECN 310; p. 10, l. 27). The server system includes a processor (120; FIG. 2) and software for managing communications between a plurality (p. 23, ll. 9-10; ll. 16-18) of client systems and the server system. The server system is configured to initiate communication with said client system (p. 16, ll. 2-5) upon said client system completing initialization wherein if a previous session using said client software completed unsuccessfully (p. 15, ll. 7-9), said client system: offers a user an option of either continuing or restoring system settings of said client system (p. 15, ll. 12-13); receives from said user an indication responsive to said offering (p. 15, ll. 14-17); and determines

whether to restore said system settings based at least in part on said indication (p. 15, ll. 14-17); provide a set of billing options (p. 17, ll. 14-17), said billing options including at least one technique for making a monetary payment; receive a billing preference from the client system (p. 17, ll. 20-21), said billing preference chosen from said billing options; send an approval inquiry to a remote approval system (p. 17, ll. 29-30); send a temporary approval signal (p. 24, ll. 12-15) to the client system before an approval signal is received from the remote approval system (p. 24, ll. 12-15) and provide the client system with temporary access to the electronic communications network (p. 24, ll. 12-19); and conduct two-way communications between the electronic communications network and the client system.

Claim 77 is directed to a program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine (p. 10, ll. 10-19; p. 11, ll. 7-9; FIGS. 6A, 6B and 6C) to perform a method for providing communication among a client system (10; p. 10, l. 2), server system (110; p. 10, l. 20), and an electronic communications network (ECN 310; p. 10, l. 27), the client system including a Central Processor Unit (CPU) (p. 10, ll. 2-3), volatile working memory (p. 10, ll. 3-4) associated with the CPU, and a communications interface (p. 10, l. 5), the client system further running client software (90; p. 10, ll. 9-10) for managing the communications between the client system and the electronic communications network, the server system running server software (130; p. 10, ll. 22-25) for managing communications between a plurality (p. 23, ll. 9-10; ll. 16-18) of client systems and the electronic communications network. The method includes if a previous session using said client software completed unsuccessfully (p. 15, ll. 7-9): offering a user an option of either continuing or restoring system settings of said client system (p. 15, ll. 12-13); receiving from said user an indication responsive to said offering (p. 15, ll. 14-17); and determining whether to restore said system settings based at least in part on said indication (p. 15, ll. 14-17). The method further includes specifying a billing preference (p. 17, ll. 14-17), said billing preference chosen from a predefined set of billing options (p. 17, ll. 14-17), said billing options including at least one technique for making a monetary payment; transmitting said billing preference to the server system (p. 17, ll. 20-21); receiving a billing approve/reject signal from the server system (p. 17, ll. 26-28); accessing the electronic communications network via the server system if an approve

signal is provided in said receiving (p. 18, ll. 10-12); and conducting two-way communications with the electronic communications network via the server system.

Claim 78 is directed to a program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine (p. 10, ll. 10-19; p. 11, ll. 7-9; FIGS. 6A, 6B and 6C) to perform a method for providing communication among a client system (10; p. 10, l. 2), server system (110; p. 10, l. 20), and an electronic communications network (ECN 310; p. 10, l. 27), the client system running client software (90; p. 10, ll. 9-10) for managing the communications between the client system and the electronic communications network, the server system running software (130; p. 10, ll. 22-25) for managing communications between a plurality (p. 23, ll. 9-10; ll. 16-18) of client systems and the server system through an electronic communications network. The method includes initiating communication with said client system (p. 16, ll. 2-5) upon said client system completing initialization wherein if a previous session using said client software completed unsuccessfully (p. 15, ll. 7-9), said client system: offers a user an option of either continuing or restoring system settings of said client system (p. 15, ll. 12-13); receives from said user an indication responsive to said offering (p. 15, ll. 14-17); and determines whether to restore said system settings based at least in part on said indication (p. 15, ll. 14-17). The method further includes providing a set of billing options (p. 17, ll. 14-17), said billing options including at least one technique for making a monetary payment, receiving a billing preference from the client system (p. 17, ll. 20-21), said billing preference chosen from said billing options; transmitting a billing approve/reject signal to the client system (p. 17, ll. 26-28); providing the client system with access to the electronic communications network via the server system if an approve signal is provided in said transmitting (p. 18, ll. 10-12), and conducting two-way communication between the electronic communications network and the client system via the server system.

Claim 79 is directed to a program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine (p. 10, ll. 10-19; p. 11, ll. 7-9; FIGS. 6A, 6B and 6C) to perform a method for providing communication among a client system (10; p. 10, l. 2), server system (110; p. 10, l. 20), and an electronic communications network (ECN 310; p. 10, l. 27), the client system running client software (90; p. 10, ll. 9-10) for

managing the communications between the client system and the electronic communications network, the server system running software (130; p. 10, ll. 22-25) for managing communications between a plurality (p. 23, ll. 9-10; ll. 16-18) of client systems and the server system through an electronic communications network. The method includes initiating communication with said client system (p. 16, ll. 2-5) upon said client system completing initialization wherein if a previous session using said client software completed unsuccessfully (p. 15, ll. 7-9), said client system: offers a user an option of either continuing or restoring system settings of said client system (p. 15, ll. 12-13); receives from said user an indication responsive to said offering (p. 15, ll. 14-17); and determines whether to restore said system settings based at least in part on said indication (p. 15, ll. 14-17). The method further includes providing a set of billing options (p. 17, ll. 14-17), said billing options including at least one technique for making a monetary payment, receiving a billing preference from the client system (p. 17, ll. 20-21), said billing preference chosen from said billing options, sending an approval inquiry to a remote approval system (p. 17, ll. 29-30), sending a temporary approval signal (p. 24, ll. 12-15) from the server system to the client system before an approval signal is received by the server system from the remote approval system (p. 24, ll. 12-15); granting the client system temporary access to the electronic communications network via the server system (p. 24, ll. 12-19); and conducting two-way communications between the electronic communications network and the client system via the server system.

Claim 80 is directed to an apparatus for providing communication (p. 9, ll. 22-25) among a client system (10; p. 10, l. 2), server system (110; p. 10, l. 20) and an electronic communications network (ECN 310; p. 10, l. 27), the client system including a Central Processor Unit (CPU) (p. 10, ll. 2-3), volatile working memory (p. 10, ll. 3-4) associated with the CPU, and a communications interface (p. 10, l. 5), the client system further running client software (90; p. 10, ll. 9-10) for managing the communications between the client system and the electronic communications network, the server system running server software (130; p. 10, ll. 22-25) for managing communications between a plurality (p. 23, ll. 9-10; ll. 16-18) of client systems and the electronic communications network. The apparatus includes means (client software 90) for, if a previous session using said client software completed unsuccessfully: offering a user an option of either continuing or restoring system settings of said client system; receiving from said

user an indication responsive to said offering; and determining whether to restore said system settings based at least in part on said indication. The apparatus further includes means (client software 90) for specifying a billing preference, said billing preference chosen from a predefined set of billing options, said billing options including at least one technique for making a monetary payment. The apparatus further includes means (client software 90) for transmitting said billing preference to the server system, means (client software 90) for receiving a billing approve/reject signal from the server system, means (client software 90) for accessing the electronic communications network via the server system if an approve signal is provided in said receiving, and means (client software 90) for conducting two-way communications with the electronic communications network via the server system.

Claim 81 is directed to an apparatus for providing communication (p. 9, ll. 22-25) among a client system (10; p. 10, l. 2), a server system (110; p. 10, l. 20), and an electronic communications network (ECN 310; p. 10, l. 27), the client system running client software (90; p. 10, ll. 9-10) for managing the communications between the client system and the electronic communications network, the server system running software (130; p. 10, ll. 22-25) for managing communications between a plurality (p. 23, ll. 9-10; ll. 16-18) of client systems and the electronic communications network. The apparatus includes means (server software 130) for initiating communication with said client system upon said client system completing initialization wherein if a previous session using said client software completed unsuccessfully. The client system: offers a user an option of either continuing or restoring system settings of said client system (p. 15, ll. 12-13); receives from said user an indication responsive to said offering (p. 15, ll. 14-17); and determines whether to restore said system settings based at least in part on said indication (p. 15, ll. 14-17). The apparatus further includes means (server software 130) for providing a set of billing options to the client system, said billing options including at least one technique for making a monetary payment, means (server software 130) for receiving a billing preference from the client system, said billing preference chosen from said billing options; means (server software 130) for transmitting a billing approve/reject signal to the client system; means (server software 130) for providing the client system with access to the electronic communications network via the server system if an approve signal is provided in said

transmitting; and means (server software 130) for conducting two-way communication between the electronic communications network and the client system via the server system.

Claim 82 is directed to an apparatus for providing communication (p. 9, ll. 22-25) among a client system (10; p. 10, l. 2), a server system (110; p. 10, l. 20), and an electronic communications network (ECN 310; p. 10, l. 27), the client system running client software (90; p. 10, ll. 9-10) for managing the communications between the client system and the electronic communications network, the server system running software (130; p. 10, ll. 22-25) for managing communications between a plurality (p. 23, ll. 9-10; ll. 16-18) of client systems and the electronic communications network. The apparatus includes means (server software 130) for initiating communication with said client system upon said client system completing initialization wherein if a previous session using said client software completed unsuccessfully, said client system: offers a user an option of either continuing or restoring system settings of said client system; receives from said user an indication responsive to said offering; and determines whether to restore said system settings based at least in part on said indication. The apparatus further includes means (server software 130) for providing a set of billing options, said billing options including at least one technique for making a monetary payment, means (server software 130) for receiving a billing preference from the client system, said billing preference chosen from said billing options, means (server software 130) for sending an approval inquiry to a remote approval system, means (server software 130) for sending a temporary approval signal from the server system to the client system before an approval signal is received by the server system from the remote approval system and granting the client system temporary access to the electronic communications network via the server system, and means (server software 130) for conducting two-way communications between the electronic communications network and the client system via the server system.



**GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

Whether claims 39-54, 58-73, 77-78 and 80-81 are indefinite for failing to particularly point out and distinctly claim the subject matter which appellant regards as the invention under 35 U.S.C. §112, second paragraph.

Whether claims 39-57 and 65-82 are unpatentable under 35 U.S.C. 103(a) over U.S. Pat. No. 5,661,517 (Budow et al; hereinafter, "Budow") in view of U.S. Pat. No. 5,612,730 (Lewis; hereinafter, "Lewis").

Whether Claims 58-64 are unpatentable under 35 U.S.C. 103(a) over Budow in view of U.S. Pat. No. 5,565,908 (Ahmad; hereinafter, "Ahmand") and Lewis.

**ARGUMENT**

**Rejection of Claims 39-54, 58-73, 77-78 and 80-81 Under 35 U.S.C. 112, Second Paragraph**

Claims 39, 43, 46, 50, 58, 62, 65, 69, 77-78 and 80-81

In the Office Action, the Examiner alleges that “if...” clauses recited in those claims are “[c]onditional language inherently [comprising] at least two conditions: the ‘if’ and the ‘if not’”, and that in the absence of limitations “regarding how [the] system is to perform if the ‘if not’ conditions holds,” “one of ordinary skill is hindered from determining the scope and how to use said system.” Appellant disagrees.

The MPEP provides as follows:

The primary purpose of this requirement of definiteness of claim language is to ensure that the scope of the claims is clear so the public is informed of the boundaries of what constitutes infringement of the patent.<sup>1</sup>

Breadth of a claim is not to be equated with indefiniteness. If the scope of the subject matter embraced by the claims is clear, and if applicants have not otherwise indicated that they intend the invention to be of a scope different from that defined in the claims, then the claims comply with 35 U.S.C. 112, second paragraph.”<sup>2</sup>

First, there is no provision in the MPEP or patent law providing that “if” clause (allegedly a conditional language) is *per se* indefinite under 35 U.S.C. §112, or requiring to recite “if not” condition whenever “if” condition is recited. Thus, the Examiner’s allegation requiring “if” and “if not” conditions does not have any legal basis or basis in the rules.

The claims on appeal recite, for example, “if a previous session using said client software completed unsuccessfully: offering a user an option...” (Claim 1). In this case, if in a certain method or apparatus a previous session using client software never completes unsuccessfully, such a method or apparatus would not infringe the present claim because the claim language

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<sup>1</sup> MPEP § 2173.

<sup>2</sup> MPEP § 2173.04; *In re Miller*, 441 F.2d 689, 169 USPQ 597 (CCPA 1971) (emphasis added).

does not read on such a method or apparatus. If in a certain method or apparatus a previous session using client software completes unsuccessfully, but the certain method or apparatus does not offer a user an option, as recited, such a method or apparatus would not infringe the claim, either, because the claim language still does not read on such method or apparatus. Accordingly, without reciting an “if not” condition in the claims, the scope of the present claims is clear so that the public is informed of the boundaries of what constitutes infringement of the patent, meeting the 35 U.S.C. §112 requirements.

Furthermore, the alleged “if not” condition would simply be another limitation narrowing the scope of the claims. For example, if the claim further recites an “if-not” condition such as “if a previous session using client software did not complete unsuccessfully, performing X procedure,” any method or apparatus which does not perform X if a previous session using client software did not complete unsuccessfully still would not infringe the claims even if the method or apparatus otherwise fully satisfy the “if” condition. Thus, the absence of the alleged “if not” condition relates to the breadth of the claim, which should not to be equated with indefiniteness.

In addition, the alleged failure to demonstrate “how to use said system,” attributed in the Office Action to the claims, is in fact not a requirement for the claims, but for the description in the specification as to the claimed invention. The MPEP provides for the enablement requirements as follows:

The enablement requirement refers to the requirement of 35 U.S.C. 112, first paragraph that the specification describe how to make and how to use the invention.<sup>3</sup>

Furthermore, with respect claim 50, 62, and 69, the condition “if the client has proper network configuration and registry setting to accomplish communication with the electronic network” is not predicated on the client receiving “an approval signal” as the Examiner alleges. The client is only required to have “proper network configuration and registry setting to

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<sup>3</sup> MPEP § 2164 (emphasis added).

accomplish communication,” not to actually conduct two-way communications, as those of ordinary skill in the art would understand from the claims.

Accordingly, withdrawal of the 35 U.S.C. §112, second paragraph, rejection is respectfully requested.

#### Claim 44

In the Office Action, the Examiner alleges that claim 44 recites “sending ... confirming that the client system is still connected.” However, claim 44 was amended in Applicant’s response filed August 15, 2006 to recite “sending ... to determine a connection status of the client system”.

#### Claims 58, 65, 74, and 77-82

Claims 58, 65, and 74 (and their dependent claims) have been amended to more clearly recite the configuration of the claimed servers.

The MPEP provides as follows:<sup>4</sup>

A functional limitation is an attempt to define something by what it does, rather than by what it is (e.g., as evidenced by its specific structure or specific ingredients). There is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper. *In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971).

A functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used. A functional limitation is often used in association with an element, ingredient, or step of a process to define a particular capability or purpose that is served by the recited element, ingredient or step.

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<sup>4</sup> MPEP, §2173.05(g).

It should be noted that claims 58, 65, and 74 (and their dependent claims) do not claim “both an apparatus and a method” as the Examiner alleges, but the apparatus (server) and its configuration “to define a particular capability that is served by the recited element.”

#### Claims 77-79

Claims 77-79 recite a program storage device readable by machine, tangibly embodying a program of instructions executable by the machine to perform a method for... , and thus do not recite “both an apparatus and a method” as the Examiner alleges. It should be noted that such a “program of instructions” is a “functional descriptive material,” and “[w]hen functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.”<sup>5</sup>

#### Claims 80-82

Claims 80-82 are apparatus claims including functional limitations which are typically referred to as “means plus function” claims. 35 U.S.C. §112, the sixth paragraph allows such claims as follows:

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, ...

#### **Rejection of Claims 39-57 and 65-82 Under 35 U.S.C. 103(b)**

Independent claims 39, 46, 55, 65, 74, and 77-82 recite, *inter alia*, that if a previous session using client software completed unsuccessfully, (1) offering a user an option of either continuing or restoring system settings of said client system, (2) receiving from the user an indication responsive to the offering, and (3), determining whether to restore the system settings based at least in part on the indication. These features are not disclosed in either Budow or

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<sup>5</sup> MPEP §2106.01.

Lewis, even if, *arguendo*, these references were properly combinable. The features are also not suggested by Lewis or Budow, considered singularly or in combination, and are not addressed in any of the Office Actions. Accordingly, a *prima facie* case of obviousness has not been established, and the rejection of claims 39, 46, 55, 65, 74, and 77-82, and the claims dependent therefrom, based on the combination of Lewis and Budow, is improper.

**Rejection of Claims 58-64 Under 35 U.S.C. 103(b)**

Similar to the other independent claims, independent claim 58 recites, *inter alia*, a client system configured to:

if a previous session using said client software completed unsuccessfully:  
offer a user an option of either continuing or restoring system settings of said client system;  
receive from said user an indication responsive to said offering; and  
determining whether to restore said system settings based at least in part on said indication

As explained above, these features are not disclosed in Budow or Lewis, even if, *arguendo*, these references were properly combinable. They are also not disclosed in Ahmad, or suggested by any of these references, considered singularly or in combination, and are not addressed in any of the Office Actions. Accordingly, a *prima facie* case of obviousness has not been established, and the rejection of claims 39, 46, 55, 65, 74, and 77-82, and the claims dependent therefrom, based on the combination of Lewis, Budow, and Ahmad is improper.

**CLAIMS APPENDIX**

39. A method for providing communication among a client system, a server system and an electronic communications network, the client system including a Central Processor Unit (CPU), volatile working memory associated with the CPU, and a communications interface, the client system further running client software for managing the communications between the client system and the electronic communications network, the server system running server software for managing communications between a plurality of client systems and the electronic communications network, the method comprising:

if a previous session using said client software completed unsuccessfully:

offering a user an option of either continuing or restoring system settings of said client system;

receiving from said user an indication responsive to said offering; and

determining whether to restore said system settings based at least in part on said indication;

specifying a billing preference, said billing preference chosen from a predefined set of billing options, said billing options including at least one technique for making a monetary payment;

transmitting said billing preference to the server system;

receiving a billing approve/reject signal from the server system;

accessing the electronic communications network via the server system if an approve signal is provided in said receiving; and

conducting two-way communications with the electronic communications network via the server system.

40. The method of claim 39, wherein the client software is missing one or more components necessary for communications with the electronic communications network and the method further includes the following performed prior to said specifying:

receiving said one or more missing components from the server system; and

installing said one or more missing components.

41. The method of claim 39, wherein the client software is missing one or more components necessary for communications with the electronic communications network and the method further includes the following performed prior to said specifying:

- searching the client system for install files containing any of said one or more missing components;
- installing any missing components found in said searching;
- receiving any additional missing components from the server system; and
- installing said additional missing components.

42. The method of claim 39, wherein the client software has one or more outdated components and the method further includes the following performed prior to said specifying:

- receiving a current version corresponding to each of said outdated components from the server system; and
- installing said current version corresponding to each of said outdated components.

43. The method of claim 39, further including the following performed prior to said specifying if the client system has proper network configuration and registry settings to accomplish communication with the electronic communications network:

- storing said settings in the volatile working memory;
- requesting assignment of an IP address from the server system; and
- receiving said IP address from the server system.

44. The method of claim 39, further including periodically sending a periodic connect signal to the server system to determine a connection status of the client system.

45. The method of claim 39, wherein said billing approve/reject signal is a temporary approval signal.

46. A method for providing communication among a client system, a server system, and an electronic communications network, the client system running client software for managing the communications between the client system and the electronic communications network, the



server system running software for managing communications between a plurality of client systems and the electronic communications network, the method comprising:

initiating communication with said client system upon said client system completing initialization wherein if a previous session using said client software completed unsuccessfully, said client system:

- offers a user an option of either continuing or restoring system settings of said client system;
- receives from said user an indication responsive to said offering; and
- determines whether to restore said system settings based at least in part on said indication;

providing a set of billing options to the client system, said billing options including at least one technique for making a monetary payment;

receiving a billing preference from the client system, said billing preference chosen from said billing options;

transmitting a billing approve/reject signal to the client system;

providing the client system with access to the electronic communications network via the server system if an approve signal is provided in said transmitting; and

conducting two-way communication between the electronic communications network and the client system via the server system.

47. The method of claim 46, further comprising assigning an IP address to the client system prior to said providing a set of billing options.

48. The method of claim 46, wherein the client system has client software and the method further comprises the following performed prior to said providing a set of billing options:

- determining if the client software on the client system is missing any components necessary for communications with the electronic communications network;
- receiving information from the client system as to whether install files exist for said missing components in the client system; and
- providing to the client system any additional missing components that do not have install files on the client system.

49. The method of claim 46, wherein the client system has client software and the method further comprises the following performed prior to said providing a set of billing options:
- determining if the client software on the client system has any outdated components; and
  - providing to the client system a current version corresponding to each of said outdated components.
50. The method of claim 46, further including performing the following prior to said providing a set of billing options if the client system has proper network configuration and registry settings to accomplish communication with the electronic communications network:
- receiving a request for assignment of an IP address from the client system;
  - assigning an IP address to the client system; and
  - forwarding said IP address to the client system.
51. The method of claim 46, wherein a plurality of client systems are in communication with the server system and the method further comprises:
- maintaining a database tracking identifying information for each of said client systems in communication with the server system; and
  - for each of said plurality of client systems, recording in said database billing information for each respective client system and data representing an amount of monetary charges accumulated by each of said respective client systems.
52. The method of claim 51, wherein said data representing said amount of monetary charges includes data representing connect time.
53. The method of claim 51, further comprising:
- recording data representing a total amount of monetary charges for each respective client system following disconnection of the client system;
  - transmitting said total amount of monetary charges to a network management system; and
  - processing account billing corresponding to the total amount of monetary charges in the network management system.

54. The method of claim 46, further comprising:

receiving a periodic connect signal from the client system to determine a connection status of the client system;  
providing a clock signal;  
determining if said periodic connect signal is received from the client system within a predetermined period based on said clock signal; and  
setting a disconnect parameter if it is determined that said periodic connect signal has not been received from the client system within said predetermined period.

55. A method for providing communication among a client system, a server system, and an electronic communications network, the client system running client software for managing the communications between the client system and the electronic communications network, the server system running software for managing communications between a plurality of client systems and the electronic communications network, the method comprising:

initiating communication with said client system upon said client system completing initialization wherein if a previous session using said client software completed unsuccessfully, said client system:  
offers a user an option of either continuing or restoring system settings of said client system;  
receives from said user an indication responsive to said offering; and  
determines whether to restore said system settings based at least in part on said indication;  
providing a set of billing options, said billing options including at least one technique for making a monetary payment;  
receiving a billing preference from the client system, said billing preference chosen from said billing options;  
sending an approval inquiry to a remote approval system;  
sending a temporary approval signal from the server system to the client system before an approval signal is received by the server system from the remote approval system and

granting the client system temporary access to the electronic communications network via the server system; and  
conducting two-way communications between the electronic communications network and the client system via the server system.

56. The method of claim 55, further comprising:  
receiving a rejection signal from the remote approval system;  
transmitting a rejection signal from the server system to the client system; and  
discontinuing two-way communications with the client system.
57. The method of claim 55, further comprising:  
sending a rejection signal to the client system; and  
receiving additional billing information from the client system.
58. A client system for communicating with an electronic communication network via a server system, the client system comprising:  
a central processing unit (CPU);  
volatile working memory associated with said CPU;  
a communications interface coupled to said CPU and volatile working memory; and  
client software coupled to said CPU, volatile working memory, and communications interface, said client system being configured to:  
if a previous session using said client software completed unsuccessfully:  
offer a user an option of either continuing or restoring system settings of said client system;  
receive from said user an indication responsive to said offering; and  
determining whether to restore said system settings based at least in part on said indication;  
specify a billing preference, said billing preference chosen from a predefined set of billing options, said billing options including at least one technique for making a monetary payment;  
transmit said billing preference to the server system;

receive a billing approve/reject signal from the server system;  
accessing the electronic communications network via the server system if an approve  
signal is provided in said receiving; and  
conduct two-way communications with the electronic communications network via the  
server system.

59. The client system of claim 58, wherein the client software is missing one or more components necessary for communications with the electronic communications network and the client system is further configured to:

receive said one or more missing components from the server system; and  
install said one or more missing components,  
before the client system specifies a billing preference.

60. The client system of claim 58, wherein the client software is missing one or more components necessary for communications with the electronic communications network and the client system is further configured to:

search the client system for install files containing any of said one or more missing components;  
install any missing components found in said searching;  
receive any additional missing components from the server system; and  
install said additional missing components,  
before the client system specifies a billing preference.

61. The client system of claim 58, wherein the client software has one or more outdated components and the client system is further configured to:

receive a current version corresponding to each of said outdated components from the server system; and  
install said current version corresponding to each of said outdated components,  
before the client system specifies a billing preference.

62. The client system of claim 58, wherein the client system is further configured to:

store said settings in the volatile working memory;  
request assignment of an IP address from the server system; and  
receive said IP address from the server system,  
before the client system specifies a billing preference if the client system has proper network configuration and registry settings to accomplish communication with the electronic communications network.

63. The client system of claim 58, wherein the client system is further configured to periodically send a periodic connect signal to the server system to determine a connection status of the client system.

64. The client system of claim 58, wherein said billing approve/reject signal is a temporary approval signal.

65. A server system for facilitating communications between a client system and an electronic communication network, said server system comprising:  
a processor; and  
software for managing communications between a plurality of client systems and the server system, said server system configured to:  
initiate communication with said client system upon said client system completing initialization wherein if a previous session using said client software completed unsuccessfully, said client system:  
offers a user an option of either continuing or restoring system settings of said client system;  
receives from said user an indication responsive to said offering; and  
determines whether to restore said system settings based at least in part on said indication;  
provide a set of billing options to the client system, said billing options including at least one technique for making a monetary payment;  
receive a billing preference from the client system, said billing preference chosen from said billing options;

transmit a billing approve/reject signal to the client system; and  
grant the client system access to the electronic communications network if an approve  
signal is provided in said transmitting; and  
interface two-way communication between the electronic communications network and  
the client system.

66. The server system of claim 65, wherein said server system is further configured to assign  
an IP address to the client system before providing a set of billing options.

67. The server system of claim 65, wherein the client system has client software and the  
server system is further configured to:  
determine if the client software on the client system is missing any components necessary  
for communications with the electronic communications network;  
receive information from the client system as to whether install files exist for said missing  
components in the client system; and  
provide to the client system any additional missing components that do not have install files  
on the client system,  
before said server system provides a set of billing options.

68. The server system of claim 65, wherein the client system has client software and said  
server system is further configured to:  
determine if the client software on the client system has any outdated components; and  
provide to the client system a current version corresponding to each of said outdated  
components,  
before said server system provides a set of billing options.

69. The server system of claim 65, wherein said server system is further configured to:  
receive a request for assignment of an IP address from the client system;  
assign an IP address to the client system; and  
forward said IP address to the client system,

before said server system provides a set of billing options if the client system has proper network configuration and registry settings to accomplish communication with the electronic communications network.

70. The server system of claim 65, wherein a plurality of client systems are in communication with the server system and said server system is further configured to:

- maintain a database tracking identifying information for each of said client systems in communication with the server system; and
- for each of said plurality of client systems, record in said database billing information for each respective client system and data representing an amount of monetary charges accumulated by each of said respective client systems.

71. The server system of claim 70, wherein said data representing said amount of monetary charges includes data representing connect time.

72. The server system of claim 70, wherein said server system is further configured to:

- record data representing a total amount of monetary charges for each respective client system following disconnection of the client system;
- transmit said total amount of monetary charges to a network management system; and
- process account billing corresponding to the total amount of monetary charges in the network management system.

73. The server system of claim 65, wherein said server system is further configured to:

- receive a periodic connect signal from the client system confirming that the client system is still connected;
- provide a clock signal;
- determine if said periodic connect signal is received from the client system within a predetermined period based on said clock signal; and
- set a disconnect parameter if it is determined that said periodic connect signal has not been received from the client system within said predetermined period.



74. A server system for facilitating communications between a client system and an electronic communication network, said server system comprising:
- a processor; and
  - software for managing communications between a plurality of client systems and the server system, said server system configured to:
    - initiate communication with said client system upon said client system completing initialization wherein if a previous session using said client software completed unsuccessfully, said client system:
      - offers a user an option of either continuing or restoring system settings of said client system;
      - receives from said user an indication responsive to said offering; and
      - determines whether to restore said system settings based at least in part on said indication;
    - provide a set of billing options, said billing options including at least one technique for making a monetary payment;
    - receive a billing preference from the client system , said billing preference chosen from said billing options;
    - send an approval inquiry to a remote approval system;
    - send a temporary approval signal to the client system before an approval signal is received from the remote approval system and provide the client system with temporary access to the electronic communications network; and
    - conduct two-way communications between the electronic communications network and the client system.
75. The server system of claim 74, wherein said server system is further configured to:
- receive a rejection signal from the remote approval system;
  - transmit a rejection signal from the server system to the client system; and
  - discontinue two-way communications with the client system.
76. The server system of claim 74, wherein said server system is further configured to:
- send a rejection signal to the client system; and

receive additional billing information from the client system.

77. A program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine to perform a method for providing communication among a client system, server system, and an electronic communications network, the client system including a Central Processor Unit (CPU), volatile working memory associated with the CPU, and a communications interface, the client system further running client software for managing the communications between the client system and the electronic communications network, the server system running server software for managing communications between a plurality of client systems and the electronic communications network, the method comprising:

if a previous session using said client software completed unsuccessfully:

offering a user an option of either continuing or restoring system settings of said client system;

receiving from said user an indication responsive to said offering; and

determining whether to restore said system settings based at least in part on said indication;

specifying a billing preference, said billing preference chosen from a predefined set of billing options, said billing options including at least one technique for making a monetary payment;

transmitting said billing preference to the server system;

receiving a billing approve/reject signal from the server system;

accessing the electronic communications network via the server system if an approve signal is provided in said receiving; and

conducting two-way communications with the electronic communications network via the server system.

78. A program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine to perform a method for providing communication among a client system, a server system, and an electronic communications network, the client system running client software for managing the communications between the client system and the electronic communications network, the server system running software for managing

communications between a plurality of client systems and the server system through an electronic communications network, the method comprising:

initiating communication with said client system upon said client system completing initialization wherein if a previous session using said client software completed unsuccessfully, said client system:  
offers a user an option of either continuing or restoring system settings of said client system;  
receives from said user an indication responsive to said offering; and  
determines whether to restore said system settings based at least in part on said indication;  
providing a set of billing options to the client system, said billing options including at least one technique for making a monetary payment;  
receiving a billing preference from the client system, said billing preference chosen from said billing options;  
transmitting a billing approve/reject signal to the client system;  
providing the client system with access to the electronic communications network via the server system if an approve signal is provided in said transmitting; and  
conducting two-way communication between the electronic communications network and the client system via the server system.

79. A program storage device readable by a machine, tangibly embodying a program of instructions executable by the machine to perform a method for providing communication among a client system, a server system, and an electronic communications network, the client system running client software for managing the communications between the client system and the electronic communications network, the server system running software for managing communications between a plurality of client systems and the server system through an electronic communications network, the method comprising:

initiating communication with said client system upon said client system completing initialization wherein if a previous session using said client software completed unsuccessfully, said client system:

offers a user an option of either continuing or restoring system settings of said client system;  
receives from said user an indication responsive to said offering; and  
determines whether to restore said system settings based at least in part on said indication;  
providing a set of billing options, said billing options including at least one technique for making a monetary payment;  
receiving a billing preference from the client system, said billing preference chosen from said billing options;  
sending an approval inquiry to a remote approval system;  
sending a temporary approval signal from the server system to the client system before an approval signal is received by the server system from the remote approval system and granting the client system temporary access to the electronic communications network via the server system; and  
conducting two-way communications between the electronic communications network and the client system via the server system.

80. An apparatus for providing communication among a client system, server system, and an electronic communications network, the client system including a Central Processor Unit (CPU), volatile working memory associated with the CPU, and a communications interface, the client system further running client software for managing the communications between the client system and the electronic communications network, the server system running server software for managing communications between a plurality of client systems and the electronic communications network, the apparatus comprising:

means for, if a previous session using said client software completed unsuccessfully:  
offering a user an option of either continuing or restoring system settings of said client system;  
receiving from said user an indication responsive to said offering; and  
determining whether to restore said system settings based at least in part on said indication;

means for specifying a billing preference, said billing preference chosen from a predefined set of billing options, said billing options including at least one technique for making a monetary payment;

means for transmitting said billing preference to the server system;

means for receiving a billing approve/reject signal from the server system;

means for accessing the electronic communications network via the server system if an approve signal is provided in said receiving; and

means for conducting two-way communications with the electronic communications network via the server system.

81. An apparatus for providing communication among a client system, a server system, and an electronic communications network, the client system running client software for managing the communications between the client system and the electronic communications network, the server system running software for managing communications between a plurality of client systems and the server system through an electronic communications network, the apparatus comprising:

means for initiating communication with said client system upon said client system completing initialization wherein if a previous session using said client software completed unsuccessfully, said client system:

offers a user an option of either continuing or restoring system settings of said client system;

receives from said user an indication responsive to said offering; and

determines whether to restore said system settings based at least in part on said indication;

means for providing a set of billing options to the client system, said billing options including at least one technique for making a monetary payment;

means for receiving a billing preference from the client system, said billing preference chosen from said billing options;

means for transmitting a billing approve/reject signal to the client system;

means for providing the client system with access to the electronic communications network via the server system if an approve signal is provided in said transmitting; and

means for conducting two-way communication between the electronic communications network and the client system via the server system.

82. An apparatus for providing communication among a client system, a server system, and an electronic communications network, the client system running client software for managing the communications between the client system and the electronic communications network, the server system running software for managing communications between a plurality of client systems and the server system through an electronic communications network, the apparatus comprising:

means for initiating communication with said client system upon said client system completing initialization wherein if a previous session using said client software completed unsuccessfully, said client system:

offers a user an option of either continuing or restoring system settings of said client system;

receives from said user an indication responsive to said offering; and

determines whether to restore said system settings based at least in part on said indication;

means for providing a set of billing options, said billing options including at least one technique for making a monetary payment;

means for receiving a billing preference from the client system , said billing preference chosen from said billing options;

means for sending an approval inquiry to a remote approval system;

means for sending a temporary approval signal from the server system to the client system before an approval signal is received by the server system from the remote approval system and granting the client system temporary access to the electronic communications network via the server system; and

means for conducting two-way communications between the electronic communications network and the client system via the server system.

**EVIDENCE APPENDIX**

None.

**RELATED PROCEEDINGS APPENDIX**

None.



Please charge any additional required fee or credit any overpayment not otherwise paid  
or credited to our deposit account No. 50-1698.

Respectfully submitted,

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Dated: 09/19/2007



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